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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,592	02/07/2000	James P. Jackson	M-7876 US	1483
7590	06/29/2004		EXAMINER	
McDERMOTT WILL & EMERY			JONES, SCOTT E	
600 13th STREET, N.W.			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20005-3096			3713	

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/499,592	JACKSON ET AL.	
	Examiner	Art Unit	
	Scott E. Jones	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 47-57 and 82-92 is/are allowed.
- 6) Claim(s) 23,35,58 and 70 is/are rejected.
- 7) Claim(s) 24-34,36-46,59-69 and 71-81 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Appeal Brief

1. In view of the appeal brief filed on April 9, 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23, 35, 58, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. 5,868,619).

Wood et al. (U.S. 5,858,619) discloses a progressive gaming control/communication system and method for playing a poker game having a plurality of progressive jackpots that is implemented in a slot machine(s). Wood et al. additionally discloses:

Regarding Claims 23, 35, 58, and 70:

- providing a first progressive jackpot and a second progressive jackpot for a gaming system (Column 4, line 33-Column 5, line 6 and Column 8, lines 43-58);
- receiving a wager in the gaming system (Column 2, lines 10-11 and Claim 1);
- providing a random gaming result in the gaming system (Claims 1-5);
- paying a first progressive jackpot if the random gaming result is a winning progressive jackpot result and if the wager is at least a first wager amount (at least \$1.00) (Column 4, line 33-Column 5, line 6 and Column 8, lines 43-58).

Wood et al. discloses a plurality of progressive jackpots, however, Wood et al. is silent to:

- paying a second progressive jackpot if the random gaming result is the winning progressive jackpot result and if the wager is at least a second wager amount.

However, Wood et al. teaches in order to be eligible for the additional progressive bonus the player would have to wager an additional \$1.00 to the initial \$5.00 wager. Therefore, it would have been obvious at the time of applicant's invention to require at least an additional \$1.00 be required to be eligible for each additional progressive jackpot. One would be motivated to do so such that each progressive jackpot could be increased by a portion of the player's additional wager in order to have a plurality of large progressive jackpots enabling player's the opportunity to receive one of a plurality of progressive jackpots that could be in the range of several hundreds of thousands if not millions of dollars. Having a plurality of progressive jackpots provides the illusion that the player has a much better chance of obtaining the big payout than would otherwise be the case with only one big payout.

Allowable Subject Matter

4. Claims 24-34, 36-46, 59-69, and 71-81 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Although Wood et al. discloses paying out a plurality of progressive jackpots, claims 47-57 and 82-92 are allowable over the prior art of record because the prior art lacks disclosing, teaching, or fairly suggesting paying the largest of either the first progressive jackpot or the second progressive jackpot if the random gaming result is a winning progressive jackpot result. This statement is not intended to necessarily state all of the reasons for allowance or all the details why the claims are allowed and should not imply that all the reasons for allowance have been set forth.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sej
S E J

JOHN M. HOTALING, II
PRIMARY EXAMINER

